

**IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
ASHEVILLE DIVISION**

CIVIL CASE NO. 1:07cv219

MICHAEL A. KITCHEN,)
)
 Plaintiff,)
)
 vs.)
)
 FARRELL LOG STRUCTURES, L.L.C.,)
)
 Defendant.)
 _____)

ORDER

THIS MATTER is before the Court on the Motion to Withdraw by Counsel for Defendant Farrell Log Structures, L.L.C. [Doc. 95].

Counsel advises that Farrell Log Structures, L.L.C. filed a voluntary petition for bankruptcy pursuant to Chapter 7 of the United States Bankruptcy Code on May 7, 2009. The Defendant is no longer a viable corporation and has no means of making payment for attorneys' services. In fact, counsel states that the Defendant is currently in arrears to the law firm for legal fees and related costs.

According to the motion, the Defendant consents to the withdrawal. However, the Plaintiff has a pending motion for an award of attorney's fees

to which no response has been made. The Court will therefore advise the Defendant that if counsel and his law firm are allowed to withdraw, the motion for an award of attorney's fees will remain pending. In the event that the Defendant makes no response to that motion, it will be granted although not necessarily in the amount sought.

IT IS, THEREFORE, ORDERED that on or before fifteen (15) days from entry of this Order, the Defendant Farrell Log Structures, L.L.C. shall advise the Court in writing whether it consents to the withdrawal of Grant B. Osborne and the law firm of McGuire, Wood & Bissette, P.A.



Lacy H. Thornburg
United States District Judge



Signed: July 16, 2009